

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Norfolk Division)**

**[REDACTED], a minor,
by and through her mother and next friend,
ASHLEY BUCKNER**

Plaintiff,

V.

PHF II NORFOLK, LLC,

and

ATRIUM HOSPITALITY, LP,

Defendants.

Case No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441, and 1446, defendants PHF II Norfolk, LLC, and Atrium Hospitality, LP, hereby file this notice of removal of the above-entitled civil action, now pending in the Circuit Court for the City of Norfolk, Virginia, CL 21-14897, to the United States District Court for the Eastern District of Virginia, Norfolk Division. In support of removal, PHF II Norfolk, LLC, and Atrium Hospitality, LP, state as follows:

Facts Giving Rise to Jurisdiction

1. Plaintiff commenced this personal injury action in the Circuit Court for the City of Norfolk, against PHF II Norfolk, LLC, and Atrium Hospitality, LP, seeking \$5,000,000.00 in damages for injuries purportedly sustained by a minor in a fitness center at the Sheraton Norfolk Waterside Hotel, on or about July 26, 2019. (Ex. 1, Compl.)

2. On information and belief, Plaintiff [REDACTED], a minor, and her mother and next friend, Ashley Buckner, are citizens of South Carolina.

3. Defendant PHF II Norfolk, LLC, is a Delaware limited liability company with its principal place of business in Arizona. No member (or member or partner of any members, *ad infinitum*) of PHF II Norfolk, LLC, is a citizen of Virginia or South Carolina.

4. Defendant Atrium Hospitality, LP, is a Delaware limited partnership with its principal place of business in Georgia. No partner (or member or partner of any partners, *ad infinitum*) of Atrium Hospitality, LP, is a citizen of Virginia or South Carolina.

Legal Basis for Jurisdiction

6. Removal of this action is proper under 28 U.S.C. § 1332, as there is complete diversity between the parties and the amount in controversy exceeds \$75,000.00.

7. PHF II Norfolk, LLC, and Atrium Hospitality, LP, were first served in this action on December 16, 2021. This Notice of Removal is thus timely filed pursuant to 28 U.S.C. § 1446(b).

8. As required by 28 U.S.C. § 1446(b), true and correct copies of the process and pleadings served upon PHF II Norfolk, LLC, and Atrium Hospitality, LP, are being filed with this notice of removal. (Ex. 1, Complaint and Summons; Ex. 2, Defendants' Answer and Grounds of Defense.)

9. Pursuant to 28 U.S.C. § 1446(d), a copy of this notice of removal is being served on all parties and filed with the Circuit Court for the City of Norfolk.

WHEREFORE, defendants PHF II Norfolk, LLC, and Atrium Hospitality, LP pray that this action proceeds in this Court as an action properly removed thereto.

Dated: January 14, 2022

Respectfully Submitted,

PHF II NORFOLK, LLC and
ATRIUM HOSPITALITY LP
By Counsel

WILSON, ELSER, MOSKOWITZ,
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/s/ Peter M. Moore

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14th day of January, 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system and that I will serve a true and accurate copy via electronic mail and U.S. mail, postage pre-paid, to:

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